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10/630,144

07/30/2003

William J. Thomas

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EXAMINER

LEMMA, SAMSON B

ART UNIT

PAPER NUMBER

2132

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/630,144

Applicant(s)

THOMAS ET AL.

Examiner

Samson B. Lemma

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-56 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### ***DETAILED ACTION***

1. The request filed on May 18, 2007 for a request for continued examination (RCE) under 37 CFR 1.114 based on patent application 10/630,144 is acceptable and an RCE has been established.

2. All independent claims, namely claims **1, 14, 28, 35, 45, 47, 49, 50, 53 and 55** are amended. No claims have been canceled or added. Thus, claims 1-56 are pending/examined. Of these fifty-six (56) claims, ten (10) claims (claims 1, 14, 28, 35, 45, 47, 49, 50, 53 and 55) are independent.

### ***Response to Arguments***

3. Applicant's remark/arguments filed on May 18, 2007 have been fully considered but they are not persuasive.

**Referring to the independent claims 1, 14, 28, 35, 45, 47, 49, 50, 53 and 55.** Applicant's representative amended all independent claims and added the following limitation in the preamble. **"for authorizing use of software"**.

Based upon the above Amendments Applicant's representative argued and requested reconsideration and withdrawal the rejection set forth in the previous office action.

**Examiner disagrees with this argument.**

**First of all**, what is argued by Applicant's representative is the limitation which is part of preamble and not part of the body of the independent claims **1, 14, 28, 35, 45, 47, 49, 50, 53 and 55**.

An intended use clause found in the preamble is not afforded the effect of a distinguishing limitation unless the body of the claim sets forth structure which

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refers back to, is defined by, or otherwise draws life and breath from the preamble. See *In re Casey*, 152 USPQ 235 (CCPA 1967).

**For instance, referring to this independent claim 1**, the limitation, “a method for using a plurality of error-detectable key fragments of an original license key string **for authorizing use of software**” is the preamble part and the rest of the limitation recited in the respective independent claim 1 is the body part of the claim.

Like wise, the following limitation, “for authorizing use of software” which is added on the rest of the independent claims 14, 28, 35, 45, 47, 49, 50, 53 and 55 is in the preamble and not in the part of the body of the claims.

It is undoubtedly clear the body of each and every independent claim, neither set forth structure which refers back to the preamble, nor defined by/from the preamble. Besides, the body of the claim does not draw life and breath from the preamble.

Furthermore, all limitations recited in the body of the independent claims are disclosed by the references on the record . (Refer to claim 1).

In order to show how each and every limitation of at least the independent claims is disclosed by Schroeder, the examiner would show the following.

Regarding at least the independent claims **Schroeder discloses a method for using a plurality of error-detectable key fragments of an original license key string, for authorizing use of software comprising: fragmenting the original key string into a plurality of key fragments; [paragraph 0029, “Packet fragment”] and calculating, for each key fragment, corresponding check data; and combining each key fragment with its**

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**corresponding check data to form said error-detectable key fragments.**

[Paragraph 0029; paragraph 0037-0038] (ECM 400 may operate to perform error control for a packet by calculating partial TCP checksums for the packet fragments. For example, if the packet is a TCP/IP packet using TCP checksums for error detection, ECM 400 may calculate the TCP checksum for the entire packet by independently calculating a partial error control value for each packet fragment, and combining the partial error control values to form a final error control value. The error control value may then be used as the TCP checksum)

Like wise, examiner also would indicate that, as dependent claims stands and falls with the corresponding independent claims, the rejection made to the corresponding dependent claims are also maintained.

The rejection is maintained until the claims are amended and successfully overcomes the ground of rejection.

Even though, the specification contains subject matter that might be allowable, the independent claims have not yet been written or included such subject matter.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. **Claims 1-12 and 14-56** are rejected under 35 U.S.C. 102(e) as being anticipated by Richard M. Butler (hereinafter referred as **Butler**)(U.S. Patent No. 7, 028,192 B2) (Claims priority of continuation application No. 09/449, 794) (filed on Nov. 26, 1999)

6. **As per claims 1, 14, 28, 35, 45 and 50** Butler discloses a method for using a plurality of error-detectable key fragments of [figure 2, ref. Num "210" and "212"] an original license key string [figure 2, ref. Num "202/206", password], for authorizing use of software comprising:

**fragmenting the original key string into a plurality of key fragments;** [figure 2, ref. Num "210" and "212"; column 5, lines 15-17] **calculating, for each key fragment, corresponding check data** [figure 2, ref. Num "Index"]; **and combining each key fragment with its corresponding check data to form said error-detectable key fragments.** [Figure 2, ref. "214"]

7. **As per claims 2 and 29** Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method further comprising: receiving a plurality of user-entered key fragments; using said corresponding check data of said received key fragments to detect whether said received key fragments were entered correctly; and generating an error message when a received key fragment is inaccurate. [Column 5, lines 57-58, and column 5, lines 40-58] (if the re-input and first input passwords differ in any way, both are discarded, and the user is prompted meets the limitation of the claim)

8. **As per claims 3, 16, 17-18, 26-27, 30, 36-38, 42-44 and 51-52** Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method further comprising: receiving a plurality of user-entered key fragments; [figure 2, ref. Num "210" & "212"] using said corresponding check data of said received key fragments to detect whether the received key fragments were entered correctly; [column

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5, lines 53-58 and figure 4, ref. Num "404"] and defragmenting the key data of the received key fragments into a reconstituted key string that is the same as the original key string. [figure 2, ref. Num "216" and figure 4, ref. Num "216"]

9. **As per claims 4 Butler discloses a method as applied to claims above.**

**Furthermore, Butler discloses the method**, wherein said defragmenting of the key data is performed when all received key fragments are entered correctly. [figure 2, ref. Num "208"]

10. **As per claims 5, 19, 31 and 39 Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, further comprising: providing the reconstituted key string to a software package to enable use of the software package.** [column 10, lines 4-9] ("implemented in software or firmware code")

11. **As per claims 6, 20, 32 and 40 Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, further comprising: providing the reconstituted key string to a hardware component to enable use of the hardware component or a portion thereof.** [Figure 2, ref. Num "104"]

12. **As per claims 7 and 21 Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, wherein receiving the key string comprises: receiving the key string in computer-readable form from a key generator.** [column 5, lines 12-18]

13. **As per claims 8, 15, 22 and 41 Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, further comprising: providing said error-detectable key fragments in human-readable form.** [Figure 2, ref. Num "216"]

14. **As per claims 9 and 33 Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, wherein combining each key fragment with**

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its corresponding check data to form said error-detectable key fragments comprises: combining each key fragment with its corresponding check data to form friendly error-detectable key fragments. [Figure 2, ref. Num "Moon: SMILE"]

15. **As per claims 10-11, 23-24 and 34** Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, wherein each friendly error-detectable key fragment comprises at least one word. [Figure 2, ref. Num "214", "OBJECT"]

16. **As per claims 12 and 25** Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, wherein combining each key fragment with its corresponding check data to form friendly error-detectable key fragments [figure 2, ref. Num "216"] comprises: using at least a portion of one of either said key fragment [figure 2, ref. Num "210" and "212"] or said check data to select data from a database to form at least a portion of said friendly error-detectable key fragment.[figure 2, ref. "214"/OBJECT]

17. **As per claim 46** Butler discloses a method as applied to claims above. Furthermore, Butler discloses the method, further comprising: a friendly key generator configured to convert error-detectable key fragments into friendly error-detectable key fragments, wherein said friendly error-detectable key fragments are words recognizable by humans. [Figure 2, ref. Num "216" such as "Moon: Smile"]

18. **As per claims 47-49; 53-56** Butler discloses a key defragmenter [figure 4, ref. Num "218"] for combining a plurality of entered error-detectable key fragments into a reconstituted key string [figure 2, ref. Num 216], **for authorizing use of software** each error-detectable key fragment comprising key data [figure 2, "Index"] and check data [figure 2, ref. Num "214"], the key defragmenter comprising:



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an error checker adapted to use the check data of at least one of the entered error-detectable key fragments to detect if the entered error-detectable key fragment is entered incorrectly [[column 5, lines 53-58 and figure 4, ref. Num "404"]; and an accumulator adapted to defragment the key data of the entered error-detectable key fragments into the reconstituted key string and provide the reconstituted key string [figure 2/4, ref. Num "216"].

19. **Claims 1-12 and 14-56** are also rejected under 35 U.S.C. 102(e) as being anticipated by Schroeder (hereinafter referred as **Schroeder**)(U.S. Publication No. 2003/0182614 A1) (filed on March 25, 2002)

20. **As per claims 1-12 and 14-56** Schroeder discloses a method for using a plurality of error-detectable key fragments of an original license key string for authorizing use of software, comprising:

**fragmenting the original key string into a plurality of key fragments;**  
[paragraph 0029, "Packet fragment"] and **calculating, for each key fragment, corresponding check data; and combining each key fragment with its corresponding check data to form said error-detectable key fragments.** [Paragraph 0029; paragraph 0037-0038] (ECM 400 may operate to perform error control for a packet by calculating partial TCP checksums for the packet fragments. For example, if the packet is a TCP/IP packet using TCP checksums for error detection, ECM 400 may calculate the TCP checksum for the entire packet by independently calculating a partial error control value for each packet fragment, and combining the partial error control values to form a final error control value. The error control value may then be used as the TCP checksum)

### ***Allowable Subject Matter***

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21. **Claim 13** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

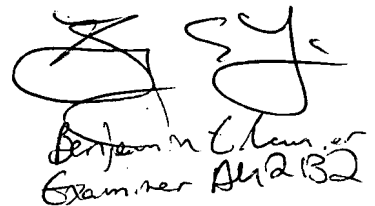
### **Conclusion**

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4: 30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-873-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**SAMSON LEMMA**  
**S.L.**  
**05/25/2007**

  
Samson B Lemma  
Examiner Art 2132